

*Op-Ed*

## Deregulating Safety: The Case of the Effort to Ban Asbestos

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ASBESTOS DUST IS, PERHAPS, THE BEST-DOCUMENTED INDUSTRIAL toxin in history and has been shown to cause asbestosis, a deadly pneumoconiosis, as well as lung cancer and mesothelioma. In the late 1890s, “Lady Factory Inspectors” from the British Office of Factory Inspection identified it as an “evil dust” that caused an “insidious disease” and strangled workers years after exposure. In 1935 the first case reports of asbestos workers coming down with lung cancer were reported in the European and American literature, and in 1955 Sir Richard Doll, the eminent epidemiologist who first demonstrated the association of cigarette smoking and lung cancer, identified asbestos workers as being at high risk for lung cancer. By the early 1960s, researchers in South Africa, Britain, and the United States documented how mesothelioma, an extremely rare cancer of the lining of the lung, occurred among those exposed to asbestos. By then few serious public health, medical, or industrial toxin experts questioned that asbestos workers, and even those exposed at home, were at risk of asbestosis, lung cancer, and mesothelioma. Indeed, the widespread use of asbestos created an epidemic of previously unidentified fatal diseases.

Despite the evidence of danger gathered during the first 6 decades of the 20th century, asbestos was introduced into thousands of products, from roof shingles, floor tiles, house siding, and ironing boards to automobile brakes and insulation materials. It was even used as “snow” in Hollywood movies such as *The Wizard of Oz* and as an ingredient in Kent Cigarettes’ Micronite Filters. Today, this carcinogenic material is still found in construction materials and imported brake pads, although it is banned in a few products such as joint compounds (used to fill in creases between pieces of drywall), spackle (used to fill in holes such as those caused by screws), and some brakes manufactured in the United States. It remains in millions of homes, offices, gas stations, and repair

shops across the country and continues to wreak havoc on thousands of workers and their families every year (see [www.Toxicdocs.org](http://www.Toxicdocs.org)).

The delay in banning this known carcinogen is easy to explain: efforts by the Occupational Safety and Health Administration, the National Institute for Occupational Safety and Health, and the US Environmental Protection Agency (EPA) to restrict its use have been stifled by private industry trade groups. Since the 1940s, hundreds of thousands of workers have died from the 3 diseases associated with asbestos exposure and the courts have been flooded with cases against manufacturers of asbestos-containing products.

Barring interference from the executive and legislative branches of the US federal government, North America might have finally addressed this decades-old problem. After years of concerted action by a variety of labor and environmental activists, Canada, where much of the asbestos used in the United States is mined, recently passed legislation to ban its use by 2018.<sup>1</sup> President Obama's EPA proposed to make it one of the 10 industrial chemicals it was to evaluate under the recently enacted Frank R. Lautenberg Chemical Safety for the 21st Century Act. Under this law, a major revision of the decades-old Toxic Substance Control Act (TSCA), a risk evaluation of asbestos must be completed within 3 years and, if found to be an "unreasonable risk to humans and the environment," the EPA is required to mitigate and potentially ban it within 2 more years.<sup>2</sup>

The big roadblock, of course, is the change that has overtaken the EPA under the Trump administration. The big context is that President Trump has declared his intention to dismantle the very agency responsible for enforcing this law. More specifically, Scott Pruitt, the new EPA administrator, in the brief time since his confirmation, has signaled his disdain for the efforts to ban asbestos. During Pruitt's confirmation hearings, Senator Cory Booker of New Jersey asked Pruitt whether he would allow the EPA to ban asbestos. Pruitt responded evasively, saying he would seek the "input of a wide range of stakeholders to ensure sound and inclusive rulemaking and not to produce or dismiss comments from one particular entity."<sup>3</sup> The administration has even put a halt on virtually all climate change research.

We can glean a bit more insight into what Pruitt intends to do about asbestos regulation by reading the words of the president who nominated him. President Trump has a long history of support for asbestos use going back to his early days in the construction industry in New York City. In 1982, he was sued by Polish immigrants who claimed that they had been

cheated of their pay and forced to work under terrible conditions while demolishing the historic Bonwit Teller department store on Fifth Avenue to make way for Trump Tower. One piece of evidence in the case was the testimony by workers who said they were forced to work in “clouds of choking asbestos dust without protective equipment.” Trump fought the suit for 17 years before settling in 1999 for an undisclosed sum. As he wrote in his 1997 book, *Art of the Comeback*, asbestos got a “bad rap” and was “100 percent safe.” He even asserted “the movement against asbestos was led by the mob.”<sup>4,5</sup> In light of the attitudes of President Trump and EPA Administrator Pruitt, we can unsafely predict that the movement to end the use of this deadly material is itself doomed.

Those aware of the terrible legacy of asbestos were, just months ago, awaiting one of the great victories in occupational and environmental history. But, as with so many other hard-fought victories, this one may be snatched away. If so, 50 years from now, as epidemiologists, lawyers, doctors, and workers once again bemoan the deaths of thousands of new victims, we will see the terrible human costs of such dangerous decisions.

## References

1. Goddin P. Canada to ban asbestos by 2018. *The {Toronto} Star*. December 15, 2016. <https://www.thestar.com/news/canada/2016/12/15/canada-to-ban-asbestos-by-2018.html>. Accessed March 1, 2017.
2. US Environmental Protection Agency. Assessing and Managing Chemicals Under TSCA, The Frank Lautenberg Chemical Safety for the 21st Century Act. <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/frank-r-lautenberg-chemical-safety-21st-century-act>. Accessed March 1, 2017.
3. *Hearings on the Nomination of Attorney General Scott Pruitt to be Administrator of the US Environmental Protection Agency Before the Senate Committee on Environment and Public Works*, 115th Cong, 1st Sess (2017). <https://www.epw.senate.gov/public/index.cfm/2017/1/hearing-on-nomination-of-attorney-general-scott-pruitt-to-be-administrator-of-the-u-s-environmental-protection-agency>. Accessed March 1, 2017.
4. Raab S. After 15 years in court, workers' lawsuit against Trump faces yet another delay. *New York Times*. June 14, 1998. <http://www.nytimes.com/1998/06/14/nyregion/after-15-years-in-court-workers-lawsuit-against-trump-faces-yet-another-delay.html>. Accessed March 1, 2017.

5. Rosenthal M. The Trump files: Donald thinks asbestos fears are a mob conspiracy. *Mother Jones*. June 9, 2016. <http://www.motherjones.com/politics/2016/05/the-trump-files-asbestos-mob-conspiracy>. Accessed March 1, 2017.

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